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13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **OAKLAND DIVISION**

16 STATE OF CALIFORNIA, *et al.*

17 Plaintiffs,

18 STATE OF OREGON

19 Plaintiff-Intervenor,

20 v.

21 ALEX M. AZAR, II, Secretary of Health
and Human Services, *et al.*,

22 Defendants,

23 and

24 THE LITTLE SISTERS OF THE POOR,
JEANNE JUGAN RESIDENCE, *et al.*

25 Defendant-Intervenors.

Case No. 4:17-cv-5783-HSG

**FEDERAL DEFENDANTS' NOTICE
OF SUPPLEMENTAL AUTHORITY**

1 Federal Defendants respectfully give notice to the Court regarding the memorandum and
 2 order granting defendants' motion for summary judgment and denying plaintiff's motion for
 3 summary judgment in *Massachusetts v. Department of Health & Human Services*. Mem. & Order
 4 (Op.), No. 17-cv-11930 (D. Mass. Jan. 15, 2021), ECF No. 139, attached hereto as Ex. A.

5 That case involved challenges to the validity of the same Final Rules at issue here. The
 6 District of Massachusetts court concluded that the Supreme Court's decision in *Little Sisters of the*
 7 *Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367 (2020), disposed of plaintiff's
 8 procedural challenges to the Final Rules and argument that the defendants lacked statutory
 9 authority to promulgate the Final Rules. Op. 12. Turning to the remaining claims, the District of
 10 Massachusetts court rejected plaintiff's claim that the Final Rules were arbitrary and capricious.
 11 Op. 12-19. The court also rejected plaintiff's Establishment Clause claim. Op. 19-24. Finally,
 12 the court rejected plaintiff's equal protection claim. Op. 25-29.

13
 14 Dated: January 19, 2021

Respectfully submitted,

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